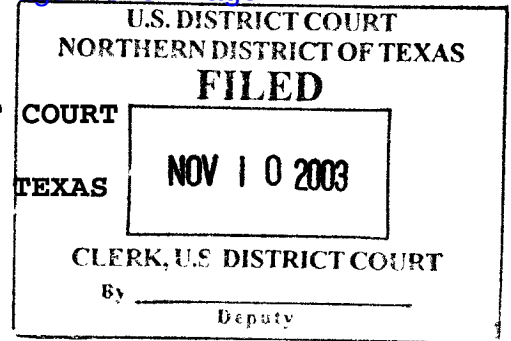


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION



JAMES AVERY RUSH, IV

PLAINTIFF,

v.

NATIONAL BOARD OF MEDICAL  
EXAMINERS,

DEFENDANT.

§  
§  
§  
§  
§  
§  
§

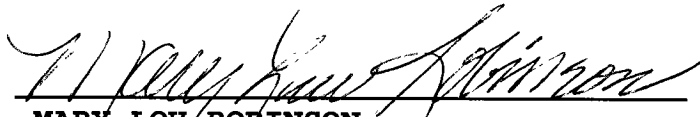
CIVIL ACTION CAUSE NUMBER  
2:03-CV-140-J

**ORDER**

On October 21, 2003, the Court reconvened the hearing on discovery issues raised by Plaintiff's October 10, 2003, motion to compel and Defendant's October 15, 2003, motion for a protective order. The Court ruled on these motions as set forth in the attached hearing transcript. The Court further ruled that all *Daubert* motions must be filed by the January 26, 2004, deadline for all other motions except motions *in limine*.

It is SO ORDERED.

Signed this the 10<sup>th</sup> day of November, 2003.

  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

JAMES AVERY RUSH, IV,

Plaintiff,

VS.

NATIONAL BOARD OF MEDICAL  
EXAMINERS,

Defendant.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

CAUSE NO. 2:03-CV-140-J

CHAMBERS CONFERENCE

OCTOBER 21, 2003

AMARILLO, TEXAS

VOLUME I OF I

On the 21st day of October, 2003, a Chambers  
Conference in the above-entitled and numbered cause came on  
to be heard before the **Honorable Mary Lou Robinson**, United  
States District Judge for the Northern District of Texas,  
presiding.

Proceedings reported by mechanical stenography; transcript  
produced by computer.

Stacy Mayes Morrison  
Official Court Reporter

15                   **THE COURT:** All right. You're entitled to know  
16 how the test is structured in the sense of the number of  
17 questions that are normally in the test; the amount of time  
18 given for different sections; the type of questions  
19 generally asked, and I'm not talking about the medical  
20 knowledge asked for, but the way the questions are  
21 presented; and the manner in which it's generally  
22 administered, which I understand is usually by computer.  
23 You're entitled to those.

24                   You are entitled to know what their experience has  
25 been with people who say that they are not able to complete

1 the test and what percentage of them can complete the test.  
2 I will not require disclosure of how they determine the  
3 subject matter contents to the various sections, but you  
4 need -- you're entitled to an expert that will do those  
5 things.

6 In connection with their experience, I think you  
7 certainly can go beyond that and ask them to what extent  
8 that they think then that tells you about whether or not  
9 the test is testing the subject matter or whether it is  
10 testing reading ability and how it impacts people with  
11 lesser reading ability. Beyond that, I won't order a  
12 disclosure in that connection.

13 Now, your next -- your next category developed  
14 was, you were wanting to know about the number of people  
15 that had taken the test and what accommodations that were  
16 offered. I think that the -- you're entitled to know how  
17 many took the test, how many were given accommodations for  
18 reading disabilities, and the nature of those  
19 accommodations. You're entitled to know the standards  
20 applied in granting the accommodations and the factors  
21 considered in granting the accommodations.

22 I will not order the production of all those  
23 individual cases in which accommodations were granted for  
24 examination, but you need to have someone who is generally  
25 avail -- generally familiar with the overall process, not

1 with individual cases, so they can tell you how those  
2 standards are applied. So you're entitled -- and that may  
3 be one or more expert witnesses.

4 Now, I think that generally covers our discovery  
5 matter. Is there something else that you --